

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
Wheeling**

**BEVERLY BURKE, individually and As
Executrix of the ESTATE OF DAVID REED
BURKE, Deceased,**

Plaintiff,

v.

**CIVIL ACTION NO. 5:20-CV-190
Judge Bailey**

**GP TRANSPORTATION CO. doing business
as GP Transco, CINTAS CORPORATION, and
SCHNEIDER LOGISTICS, INC., also known as
Schneider International,**

Defendants.

ORDER GRANTING PLAINTIFF'S MOTION TO AMEND COMPLAINT

Pending before this Court is Plaintiff's Motion to Amend Complaint [Doc. 43], filed February 26, 2021. Therein, plaintiff seeks leave to file an Amended Complaint to add Kokosing Construction Company, Inc., The Olen Corporation, CG Enterprises, Inc., McGraw/Kokosing, Inc. and Kokosing Materials, Inc. as defendants in this action.

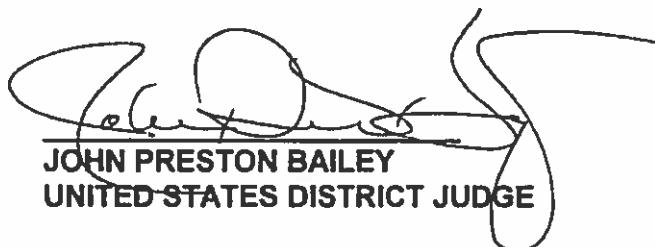
Under Federal Rule of Civil Procedure 15(a)(1), a party may amend its pleading once as a matter of course within (A) 21 days of serving it, or (B) if the pleading is one to which a responsive pleading is required, 21 days after service of a responsive pleading or 21 days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier. When the 21 day period has expired, FRCP 15(a)(2) allows a party to amend its pleading with leave of the court, which the rule states should be freely given when justice so requires.

Here, defendants filed their answer several months ago; accordingly, this Court is guided by Rule 15(a)(2). Upon consideration of the Motion, the Court finds that the defendants would neither be unduly prejudiced by allowing the plaintiff to amend, nor does this Court find any bad faith in so doing. Further, the amendment is not futile. Accordingly, the Plaintiff's Motion to Amend Complaint [Doc. 43] is hereby **GRANTED**. Plaintiff is **DIRECTED** to file the Amended Complaint which is included in the instant motion at [Doc. 43-1].

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to all counsel of record herein.

DATED: March 1, 2021.



JOHN PRESTON BAILEY
UNITED STATES DISTRICT JUDGE